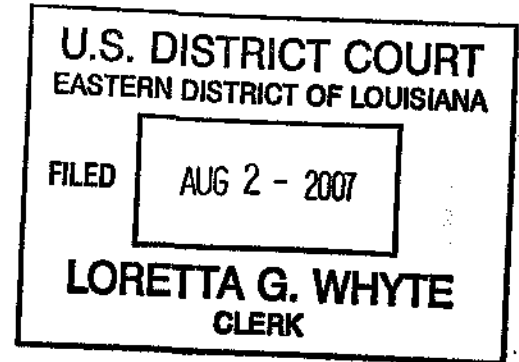


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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA	*	CRIMINAL DOCKET NO. 07-211
v.	*	SECTION: "T"
NELSON SZILARD GALGOUL	*	VIOLATION: 18 USC § 371
	*	
	*	
	*	

FACTUAL BASIS

Should this matter proceed to trial, the United States of America will prove beyond a reasonable doubt, through credible testimony and reliable evidence, the following facts.

Defendant Nelson Szilard Galgoul is the director and main partner of SUPORTE Consultoria e Projetos Ltda. ("Suporte"), an engineering consulting firm located at Rua Visconde de Inhauma 134/505, Rio de Janeiro, Brazil. Suporte is listed as the "Brazilian" agent for Engineering Dynamics, Inc. Galgoul is a United States citizen and also is a Brazilian citizen. He holds valid passports from both the United States and Brazil.

Engineering Dynamics, Inc. ("EDI"), is an engineering and software company that designs and markets web based computer software that is used in the design and manufacture of offshore oil platforms and marine vessels. EDI was founded, and is still owned, by David Garland, James Angehr, and John Fowler.

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Galgoul, through his company Suporte, is the Brazilian business agent for EDI. Galgoul has been distributing and providing technical support for EDI's Structural Analytical Computer Software, (SACS), to several oil and maritime companies in the Country of Iran. SACS is a software program used in the design of mostly oilfield related structures such as offshore drilling platforms. In particular, Galgoul serviced SACS and taught Iranian engineers how to design platforms using this software from 1995 through 2007. The origin of the software Galgoul provides to Iran is from the corporate office of EDI, located at 2113 38th Street, Kenner, Louisiana. The International Emergency Economic Powers Act ("IEEPA"), 50 U.S.C. §§ 1701-1706, authorized the President of the United States to impose economic sanctions against a foreign country in response to an unusual or extraordinary threat to the national security, foreign policy, or economy of the United States when the President declares a national emergency with respect to that threat.

On March 15, 1995, the President issued Executive Order No. 12957 finding that "the actions and policies of the Government of Iran constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States" and declaring "a national emergency to deal with that threat." Executive Order No. 12957, as expanded and continued by Executive Orders No. 12959 and 13059 and successive Presidential notices, was in effect at all times relevant to the Indictment.

Executive Orders No. 12959 and 13059 (the "Executive Orders") imposed economic sanctions, including a trade embargo, on Iran. The Executive Orders prohibited, among other things, the exportation, re-exportation, sale, or supply, directly or indirectly, to Iran of any goods, technology, or services from the United States or by a United States person. The Executive Orders also prohibited any transaction by any United States person or within the United States that evaded

or avoided, or had the purpose of evading or avoiding, any prohibition set forth in the Executive Orders. Information received from the U.S. Department of State database, revealed that Galgoul possesses a United States Passport, indicating that he is a United States citizen. When he was conducting his activities, Galgoul possessed dual U.S. and Brazilian citizenship. He traveled to Iran using a Brazilian passport.

The Executive Orders authorized the Secretary of the Treasury, in consultation with the Secretary of State, "to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes" of the Executive Orders. Pursuant to this authority, the Secretary of the Treasury promulgated the Iranian Transactions Regulations ("ITR"), 31 C.F.R. Part 560, implementing the sanctions imposed by the Executive Orders.

Under the Iranian Transactions Regulations, 31 C.F.R. Part 560:

- a. Section 560.204 provided that no goods, technology, or services may be exported, re-exported, sold, or supplied to Iran, directly or indirectly, from the United States or by a United States person wherever located, without authorization. 31 C.F.R. 560.204
- b. Section 560.203 prohibited any transaction by any United States person or within the United States that evaded or avoided, or had the purpose of evading or avoiding, or that attempted to violate, any of the prohibitions set forth in Part 560. Section 560.203 further prohibited any attempt to violate the prohibitions contained in Part 560. 31 C.F.R. § 560.203.

Beginning in or around March, 1995, and continuing through in or around June 8, 2005, within the Eastern District of Louisiana and elsewhere, Galgoul and others knowingly combined, conspired, confederated, and agreed with each other to export and attempt to export SACS software, a U.S. origin commodity, to Iran without having first obtained the required authorizations from United States Department of the Treasury's Office of Foreign Assets Control ("OFAC"), and to provide engineering services to the Iranian offshore industry which sometimes involved the use of SACS software, in violation of Title 50, United States Code, Section 1705 and Title 31, Code of Federal Regulations, Section 560. Specifically, after the embargo, Galgoul stated that EDI asked him to help mediate the first EDI post-embargo sale to Iran and that EDI gave him a document transferring ownership of the SACS software to Galgoul's Brazilian company Suporte so that the export of SACS software to Iran could continue ostensibly as a Brazilian company selling a Brazilian product. However, EDI was still involved in the development, improvement, marketing, and accounting for the SACS software and received 80% of the sales price from the sales generated by Galgoul in Iran. OFAC, located in the District of Columbia, had responsibility for administering the ITR and was the entity empowered to authorize transactions with Iran during the embargo. Such authorization, if granted, would be in the form of a license.

A query conducted by OFAC for the existence of a license issued to or applied for by EDI or its corporate officers to export the SACS software to Iran, revealed that no license has been applied for or issued. The query covered the dates from August 1995 to February 2007.

A subsequent query conducted by agents of the Department of Commerce, Office of Export Enforcement, Bureau of Industry and Security, revealed that software of this nature requires a license

for export issued in accordance with Section 746.7 of the Exodus Accountability Referral System (EAR). No such license has been applied for or issued to EDI for the SACS software.

In October, 2006, Galgoul learned that EDI and its owners were going to self-report to the U.S. Government. On March 7, 2007, agents executed a federal search warrant at the corporate office of EDI. Agents seized documentary and computer stored evidence relating to the sale of the SACS software to Iran by Galgoul.

Forensic examination of EDI computer hardware revealed numerous e-mails generated by Galgoul, the corporate officers, and other employees at EDI related to the sale, maintenance, and technical assistance for the SACS software to companies in Iran over an extended period of time from the mid 1990's through 2006.

Forensically recovered e-mails also revealed that Galgoul and the corporate officers of EDI were aware of the Presidential Executive Orders prohibiting these transactions with companies in Iran after May of 1995 and conspired to conceal these transactions from discovery by the United States government.

Additional forensically recovered e-mails also revealed that Galgoul traveled to Iran to provide services and technical support to the Iranian companies that he had sold the EDI, SACS software. These travels and subsequent services were conducted with the knowledge and consent of persons at EDI's corporate office.

A sampling of the e-mails between Galgoul and officers of EDI exhibiting their knowledge and intent to violate by circumventing United States laws throughout the period of the indictment is as follows:

1. On or about July 17, 1995, an officer of EDI sent a telefax to Suporte which stated, "I spoke with Nelson late last week before he was to leave for Iran. We have discussed with him in detail the prohibition that we now have from the US government regarding trade with Iran."
2. On or about July 21, 1996, an officer of EDI sent a telefax to an EDI employee stating in pertinent part that, "The companies in Iran that we sold software to before the embargo are 1. Iran Marine Industrial Company (IMICO). 2. Namvaran Consulting Engineers. 3. Petroleum Development and Engineering Company (PEDEC). 4. Iranian Offshore Engineering and Construction Company (IOEC). 5. Sazeh Consultants (Temporary License).
3. On January 5, 2000, Galgoul sent an officer of EDI an e-mail which discussed his plans to travel to Tehran, Iran on January 18. Galgoul further stated that "The only place where I use my Brazilian passport is Iran."
4. On or about December 4, 2000, Galgoul sought EDI's "blessing" relative to a negotiated sale of upgraded software for eight keys sold to IOEC for \$121,244. According to Galgoul, this transaction was never completed. Galgoul further accounted for the following keys owned by IOEC: 019; 090, 230, 231, 451, 510, 546, 549.
5. On or about January 17, 2001, an officer of EDI sent an e-mail to an EDI employee directing them not to respond to a sales lead stating, "Please don't respond. I will send it on to Nelson who has taken over our client base in Iran."

6. On or about August 22, 2001, Galgoul sent an officer of EDI an e-mail concerning a naval architect who has a poor reputation. Galgoul added that "Nevertheless as long as he pays its (sic) fine." The architect referenced was an employee of IOEC. In addition, Galgoul states that the software the architect is working with belongs "to IOEC." "They are the company that has 8 SACS keys and who have been negotiating an upgrade for \$US120000.00. The last I heard from them was that they were in bad financial condition (in spite of being owned by the son of the former president Mr. Rafsanjani, who stepped up into a position between the Ayiatolas (sic) and the present day president when he left office. Right now we have several things cooking up in the middle east: - 2 new companies have informed me that they are buying: ISOICO and PETROIRAN - 2 others are negotiating upgrades: IOEC and IMICO." According to Galgoul, the transaction to upgrade and the PETROIRAN purchase were never completed.
7. On or about March 13, 2003, Galgoul sent EDI his key inventory which referenced the following Iranian clients: IMICO keys 452, 426, 427, 428, 410S, 411S, 416S, 443S; OIEC key 603S; ISOICO keys 864S, 862S, and 863S.
8. On or about October 4, 2003, Galgoul provided an accounting of his sales to EDI in an e-mail which reflecting among other things the following payments from an Iranian client SAZEH on the following times and in the following amounts: May 19, 2003 - \$6231.90; June 30, 2003 - \$6231.90; July 7, 2003 -

7930.00; July 23, 2003 - US\$3408.00. In the e-mail to an officer of EDI, Galgoul stated, "Nelson pays EDI 80% of these values, wherefore US \$19041.44."

9. In an e-mail to an officer of EDI dated July 10, 2004, Galgoul inquired whether the EDI bookkeeper was familiar with EDI's billing arrangements with Galgoul and asked, "My question to you is if all of the Middle East things should also be disclosed?" In a response dated July 11, 2004, an officer of EDI stated, that "nothing has changed from before" and that the bookkeeper "is not privy to the details of the situation so all she needs to know is the breakdown of what we owe you in commission, training and expenses so she knows how to code it in our accounting system."
10. On December 25, 2004, Galgoul sent an e-mail to an officer of EDI providing "the description of the deal I cut with my middle east client, who was using pirate software." Galgoul also provided information concerning his banking information in Munich, Germany. An officer of EDI responded, saying in pertinent part that, "US\$ 80K is hard to turn down and I am happy to get them weaned from using pirated copies." An officer of EDI also discussed the need for the client to subscribe to a maintenance agreement and when a new version of the software would be available.
11. On or about June 13, 2005, an officer of EDI sent an e-mail to various officers and employees of EDI stating that Galgoul "is already scheduled to go to Iran this week and we benefit as much as anybody by this trip because

we cannot do business there and he is checking for us to find out if there are any pirated copies of SACS being used. We do not want him to cancel or postpone this trip. This was Galgoul's last trip to Iran relative to SACS.

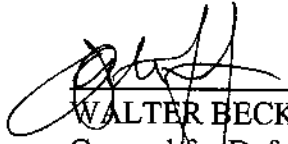
On March 7, 2007, agents assigned to the ICE Attaché, Brasilia, Brazil, the Federal Bureau of Investigation Legal Attaché, and two Brazilian Federal Police agents conducted an interview of Galgoul. During the interview, Galgoul told agents that he had been expecting them. Galgoul believed that the agents were interviewing him as part of the self-report initiated by EDI. Galgoul stated that he was EDI's technical representative and has sold SACS in Brazil, Mexico, and Iran. Galgoul admitted that he was aware of the embargo. Galgoul stated that out of fairness to the Iranian clients that had purchased the SACS software previous to the embargo, he requested that EDI provide the Iranian clients with permanent access to the software. Galgoul admitted that he and EDI managers knew that it was a violation of U.S. law to export to Iran, but said that he was told that it did not apply to him because he and his company were both Brazilian. Nevertheless, the Government's evidence would demonstrate that EDI continued to be involved in the development, improvement, marketing, and accounting for the SACS software from their Kenner office, and that at all material times, Galgoul was a U.S. citizen and therefore subject to U.S. export control laws. Galgoul also told agents that his trips to Iran were for missionary work and that he used his engineering status to get into Iran to do this.

Agents from ICE learned that Galgoul was due to arrive in the U.S. on May 3, 2007. A complaint was then issued for Galgoul's arrest. Galgoul was arrested at the airport upon his arrival in New Orleans.

Galgoul fully cooperated with the agents as he had done previously in Brazil. After being advised of his *constitutional rights and waiving them*, Galgoul, gave a voluntary statement admitting to continually trading with Iranian companies despite the embargo. Galgoul stated that he was aware of the United States embargo against Iran. Galgoul said he was told by the owners of EDI that the embargo did not apply to him because he could travel to Iran as a Brazilian citizen and the sales could be done by his company which was a Brazilian company. Galgoul added that his only interest in continuing to sell the software was to enable his travel to Iran. He stated that he could enter Iran as an engineer and then be able to preach the gospel (literally) with little fear of repercussion.

The Government's evidence would demonstrate and Galgoul acknowledged that Galgoul and EDI were aware that U.S. law prohibited the transfer of SACS software to Iran and that Galgoul and EDI continued to do so after the embargo knowingly or at least after deliberately closing their eyes to what would otherwise have been obvious to them. Galgoul stated that he did so for a variety of reasons, including his primary wish to evangelize within Iran, but he also acknowledged that he earned a 20% commission on most of his sales. Galgoul failed to fully investigate whether his post-embargo activities were legal. In sum, Galgoul put aside his doubts and suspicions and engaged in willful blindness or conscious avoidance of the illegality of his post-embargo activities and failed to make reasonable further inquiry.


The foregoing facts will be proven by the testimony of Special Agents of Immigration and Customs Enforcement, other competent witnesses, and the production of various documents.

 8-2-07

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